

# **MIGRANT WORKER POLICY COMMITTEE**

## **Annual Report 2000**

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## ***INTRODUCTION***

Governor Gilmore recognizes that Virginia's agricultural industry is extremely valuable to the state's economy. The Commonwealth has traditionally relied on some 18,000 migrant, seasonal and H-2A workers to help tend Virginia's crops each year. Many of the state's fruit, vegetable and tobacco crops are labor-intensive, and there is no feasible alternative to hand-harvesting them.

The Governor, therefore, appoints individuals to the Migrant and Seasonal Farmworkers Board and oversees an Interagency Migrant Worker Policy Committee. The primary roles of these bodies are to review, coordinate, evaluate and address issues regarding migrant and seasonal farmworkers (MSFWs). The Board, comprised of 15 Gubernatorial appointees, meets quarterly. The Committee, made up of representatives of 17 state agencies, is chaired by the Commissioner of Labor and Industry and also meets on a quarterly basis.

In this report, you will find a listing of Committee members, descriptions of agency services to migrant and seasonal farmworkers, activities undertaken and issues discussed during 2000, and conclusions and recommendations.

It is a pleasure to serve the Governor in seeking to meet the needs of Virginia's migrant and seasonal farmworkers and its agricultural industry. If you have questions or need additional information, please feel free to contact me.

Jeffrey D. Brown  
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## ***AGENCY SERVICES FOR MIGRANT WORKERS***

### **Virginia Department of Agriculture and Consumer Services (VDACS)**

The mission of VDACS is to promote the economic growth and development of Virginia agriculture, encourage environmental stewardship and provide consumer protection.

To protect farmworkers from pesticides, VDACS's Office of Pesticide Services is charged with ensuring that agricultural workplaces comply with the federal Worker Protection Standard. This federal regulation provides MSFWs and other agricultural workers with safeguards against pesticide exposure by requiring agricultural employers to provide workers with pesticide safety training, information about pesticide applications, decontamination supplies, and personal protective equipment. VDACS also helps the agricultural industry to comply with the federal Worker Protection Standard by working with Virginia Cooperative Extension, grower associations, and others to provide compliance information and educational materials to producers and pesticide applicators. In this way, migrant workers are protected by VDACS from unnecessary exposure to pesticides.

The agency's Office of Consumer Affairs is available to all Virginia consumers, including MSFWs, to provide protection against fraudulent, deceptive and illegal practices. Any worker needing assistance or advice concerning a consumer purchase can contact the Office of Consumer Affairs using the consumer hotline at 1-800-552-9963.

VDACS also has a food distribution program. Each year, VDACS distributes USDA donated commodities to eligible summer feeding programs in Virginia, including those that feed the children of migrant and seasonal farmworkers. Last year, approximately 8,700 balanced meals were given to children of migrant laborers working in Northampton County.

### **Virginia Department of Environmental Quality (DEQ)**

The Department of Environmental Quality does not provide services to migrant and seasonal farmworkers directly, although it does have an oblique impact on MSFW living and work environments. DEQ regulates enterprises and facilities that might pose public health problems through measures such as permits, including revocation when warranted.

DEQ also performs regular inspections of wastewater treatment facilities to ensure that such facilities operate with public health and safety in mind. In turn, these measures ameliorate the working and living conditions of migrant and seasonal farmworkers.

## **Virginia Department of Health (DOH)**

The Virginia Department of Health is in charge of controlling public health threats to all of Virginia. Regulating migrant labor camps is an important part of this responsibility. Since an outbreak at a camp potentially affects the public health of the entire state, it falls within VDH's domain to ensure healthy living conditions for workers and their families while they are employed and living in Virginia.

Essential to this are safe and adequate drinking water and the proper disposal of sewage. The Occupational Safety and Health Administration and the State Board of Health have set standards for hazardous material storage, building and structure construction, and the handling of solid waste, in addition to regulating water supplies and sewage disposal. In pursuing compliance with these standards, state law requires camp operators to apply for a local health permit.

Once a permit application has been received, an environmental health specialist performs a preoccupancy inspection of living quarters, kitchen and dining areas, water and sewage facilities, and the surrounding environment.

Growers found to be in compliance are issued a permit, although they continue to be monitored. These growers are subject to unannounced health inspections while camps are occupied. Growers with serious violations are ordered to take immediate action; those with less severe infractions are given more time.

In addition to regulating the health aspects of migrant labor camps, local health departments provide other health services to the migrant population. Specifically, Virginia's local health departments identify diseases early. They spot trends and introduce preventive strategies to reduce the occurrence of infections and chronic disease. Individuals and groups receive education and services promoting good nutrition, prevention of unintended pregnancies, child safety techniques, and immunizations. When a migrant becomes ill or injured, an emergency medical system and high quality health care facilities are available. Many migrants receive some type of medical care directly from health departments. For example, prenatal services, dental services or treatment for AIDS or tuberculosis (TB) are provided.

## **Virginia Department of Rehabilitative Services (DRS)**

It is the goal of the Department of Rehabilitative Services to improve the lives of the disabled (including MSFWs) by helping them to gain full inclusion into society. This means maximizing their independence, which involves helping to make it possible for them to be employable. "Rehabilitation" means to restore to useful life through education and therapy. In other words, it means to teach people to be productive despite serious obstacles, in this case, disabilities. The agency also seeks to adapt the environment to be more user-friendly to such individuals.

Every Virginia locality, urban and rural, is covered by DRS's four divisions: Central Office, Consumer Services, Disability Determination Services, and the Woodrow Wilson Rehabilitation Center. A farmworker who becomes disabled while temporarily residing in Virginia is an example of a person who could be serviced by the DRS.

First, this person would be eligible for a physical and/or psychological examination to determine the extent of the disability, and the potential for improvement. If necessary, medical, surgical or hospital care would be provided.

Once this person is in a position to deal with the business of becoming re-employed, a vocational evaluation would identify his/her skills. Next, job counseling would be made available, followed by vocational training. Then, perhaps maintenance and transportation during the training would be offered and, finally, job placement services, which might include follow-up to make sure there is a good adjustment to the new job.

Beyond medical and vocational support, special services are also offered to make life a little easier during this difficult transition time. For example, interpreting and note-taking for the deaf is available, as well as the providing of occupational licenses and tools.

### **Virginia Department of Alcoholic Beverage Control (DABC)**

The Department of Alcoholic Beverage Control does not serve MSFWs in a direct way. However, there can be some circumstances, such as the illegal sale or handling of alcoholic beverages, which would fall under the purview of this department.

The DABC is a regulatory agency which controls the sale of alcoholic beverages through licenses and allows the manufacture, bottling, sales, advertising and transportation of alcoholic beverages. The department also operates state stores for the sale of beverages other than beer to consumers and licensees.

### **Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRAS)**

The Department of Mental Health, Mental Retardation and Substance Abuse Services is a service provider. The agency's service system comprises 15 state facilities and 40 Community Service Boards (CSBs). CSBs, as their name implies, are based in communities. They have direct contact with their "consumers," including any MSFWs who may need services.

If a member of a community (including MSFWs) has an emergency of a "psychological" nature, crisis intervention services, stabilization, and referral assistance are available 24 hours a day, and seven days a week. Crisis



intervention can involve any crisis that is either a chronic situation, or taking place in the moment. Spouse battering, substance abuse, conflicts of interest between separated parents, suicide attempts and anxiety attacks are all examples of crises that can benefit from professional intervention. Often, mental health professionals can mediate disputes that might otherwise result in violence, or they can step in when issues cross the boundary between the personal or family realm and the legal realm.

When necessary, CSBs will do pre-admission screenings for local in-patient services. These services include acute psychiatric or substance abuse services which provide short-term psychiatric treatment and other “support” therapies. They also include community-based substance abuse medical detoxification services which use medication to reduce effects of alcohol or other drugs.

Outpatient services are also offered. These services include counseling, behavior management, psychological testing, and medication services. Treatment includes intensive in-home services for children and adolescents with, or at risk of, serious emotional disturbance, or who have a diagnosis of mental retardation with behavioral problems (and therefore at risk of being removed from the home). Methadone detoxification and maintenance programs are also made available. Another outpatient service is the case management service which functions as the link between “consumers” and the community, and which can also guide consumers in seeking the right kind of service or treatment.

Day Support Services offer the chance to learn independent living skills, enhanced interpersonal skills, and vocational guidance. Residential services provide half-way houses and emergency shelters to give temporary respite or support.

### **Virginia Department of Medical Assistance Services (DMAS)**

The Department of Medical Assistance Services administers the Medicaid program in Virginia. Medicaid is a medical assistance program available to U.S. citizens or legal aliens. It provides reimbursement for a broad range of medical services. Aliens who do not qualify for full Medicaid benefits due to their alien status may be eligible for Medicaid coverage of emergency services if they meet all other Medicaid eligibility requirements.

Under federal law, migrant and seasonal farmworkers who are enrolled in the Medicaid program are entitled to a wide range of medical coverage. For example, emergency hospital care, clinic care, lab. and x-ray, physicians, family planning, and nurse-midwife services are covered.

Under Virginia law, additional coverage is made possible. Specifically, Podiatrist, Optometrist and Clinical Psychologist services are covered. Home health services, dental services (under age 21), and pediatric and family nurse practitioner services are also available. Prescribed drugs and prosthetic devices are covered as well. Ancillary medical benefits such as hospice benefits and adult day care are also provided.

## **Virginia Department of Social Services (DSS)**

Local offices of the Department of Social Services make a range of services available to those deemed eligible, including migrant and seasonal farmworkers. Such services comprise Temporary Assistance to Needy Families (TANF), food stamps, Medicaid, State and Local Hospitalization (SLH), and General Relief. Eligibility for all services is determined through local DSS offices.

TANF provides direct financial help to needy families with children. Assistance is provided to income-eligible citizens or legal aliens for single-parent and two-parent families in which both parents are unemployed, or if the principal wage earner is underemployed according to federal guidelines.

Food stamps are provided to income-eligible persons and families for the direct purchase of food and related nutritional products. Most migrant workers meeting income criteria are eligible for expedited food stamps. This means that the 30-day lead-in time is waived, and applications are processed immediately upon receipt.

SLH provides the payment of in-patient and outpatient hospitalization fees, ambulatory surgery and Health Department clinic visits for income-eligible persons. On the Eastern Shore, limited funds are available to migrant workers for the payment of tolls on the Chesapeake Bay Bridge-Tunnel. These funds are made available by the Chesapeake Bay Bridge-Tunnel Authority for those requiring medical assistance across the Bay. The funds are administered through the Departments of Social Services in Accomack and Northampton Counties.

General Relief is a one-time payment financial assistance program available to persons who confront emergencies or unexpected hardships. The program is available on the Eastern Shore, although it is optional and therefore not available at every location.

## **Virginia Workers' Compensation Commission (VWC)**

The Virginia Workers' Compensation Commission administers the Workers' Compensation Act. Workers' compensation is a no-fault system providing medical and wage indemnity benefits to eligible employees whose injury or occupational disease arises "out of and in the course of employment." Other benefits include vocational rehabilitation, scheduled disability losses, and death benefits paid to dependents. With some exceptions, farm and horticultural laborers are covered where the employer regularly has in service more than two full-time employees.

The VWC also administers another program which could provide benefits to migrant workers. This program provides limited compensation to some victims of criminal acts.

In the large majority of cases, matters are resolved to the satisfaction of the parties without the need of a judicial hearing. For disputed claims, the VWC schedules hearings at one of its six offices or at other convenient locations throughout the Commonwealth.

An ombudsman position was recently created and filled to provide assistance to employees and employers, ranging from answering simple questions about claims to providing no-cost dispute mediation services. In addition, VWC recently opened an informative and helpful website, providing information to migrant workers and growers connected to the Internet.

### **Virginia Department of Housing and Community Development (DHCD)**

Unlike other employers, Virginia growers provide housing for their workers. With modest revenues, they are finding this difficult. Some relief had been available to growers from DHCD through the Virginia Housing Partnership Revolving Fund. Besides funds made available to growers, DHCD provides funding to the communities of these farms for needs peripherally related to the housing issues of MSFWs. Since a farm cannot stay in business without sustaining its labor force, funding for housing (and related needs) is vital to a grower's ability to continue producing and harvesting crops.

DHCD is virtually the only source of state funds available to growers for help with farmworker housing conditions. In the form of grants and/or low-interest loans, the funds go toward either improving or building housing ("rehab" and "new," respectively). For example, in 1990, there was a one-time distribution of approximately \$700,000 directly to Virginia's growers. The Department recommended that \$1 million be appropriated to be used exclusively for farmworker housing during FY 1998; however, no funds were allocated. Without these loans and grants, it is entirely possible that there will be little or no funds available for "new" or "rehab" projects.

### **Virginia Department of Labor and Industry (DOLI)**

The Virginia Department of Labor and Industry has a central office in Richmond and five regional offices throughout the state. This department enforces compliance with the Virginia Occupational Safety and Health (VOSH) Law, which provides job safety and health protection for workers, including MSFWs. Within VOSH, the Virginia Safety and Health Codes Board promotes and adopts job safety and health standards which employers and their employees are expected to follow.

Compliance staff ensure field sanitation requirements are met and, through an agreement with the Virginia Department of Health, see to it that farm labor camps are maintained in compliance with standards. This is done through random inspection of farm camps and the processing and investigation of valid complaints regarding camp safety and health conditions. Local environmental health specialists in various geographical areas make bi-weekly inspections of

occupied camps both prior to and during occupancy. All camp residents of any county are eligible for services.

In addition to obtaining information through random inspections, DOLI takes written and telephoned complaints. Written complaints are preferred, and both types of complaints should come from the employee or his/her representative. As long as the problem comes under the purview of OSHA, these complaints can expect follow-up from VOSH.

The Labor and Employment Law Division administers the state's labor laws, including minimum wage, payment of wages, child labor and right to work, among others. In addition, the Virginia Department of Labor and Industry provides staff support for the Virginia Migrant and Seasonal Farmworkers Board, and the Commissioner serves as Chairman of the Interagency Migrant Worker Policy Committee.

### **Virginia Employment Commission (VEC)**

The Virginia Employment Commission is one of the main focal points for both migrant and seasonal farmworkers (MSFWs) and for agricultural employers seeking labor. Its primary responsibility lies in making employment-related matches between those who offer jobs, and those seeking work in agriculture and in non-agricultural employment.

Under the newly enacted Workforce Investment Act of 1998 (WIA), the VEC has joined other WIA partners to build a statewide system of One-Stop Centers. Through these centers, most of which have VEC staff and services available, and through other stand-alone VEC field offices, the Virginia Employment Commission maintains an extensive program to provide appropriate employment-related services to MSFWs. Statewide coverage is provided through, and managed by, nine field offices staffed by ten Farm Placement Specialists. Two field offices, one located at Winchester and one on the Eastern Shore at Onley, are federally designated as "MSFW Significant Field Offices" due to the especially large number of MSFWs they could potentially serve.

Services are available in most offices in Spanish, both from VEC farm placement staff and through the agency's computerized job search system. Improvements are continuously being made to serve jobseekers with limited English proficiency.

For the program year ending June 2000, of the estimated 16,691 MSFWs in Virginia (excluding H-2A workers) 4,141 were registered with the VEC for service, 3,691 were referred to a job, and 3,337 found jobs through its program.

### **Virginia Department of Education (DOE)**

Virginia's educational reform consists of four major elements: raising academic standards; measuring student achievement; ensuring the accountability of schools for student achievement; and communicating with

parents and the community at large. The Virginia Migrant Education Program (MEP) is designed to assure the children of migrant and seasonal farmworkers have access to these reforms and meet Virginia's rigorous academic standards.

For school year 1999-2000, Virginia received approximately \$746,164 from the U.S. Department of Education and \$300,000 from the Virginia General Assembly for the implementation of Migrant Education Programs throughout the Commonwealth. Comprehensive health and academic services are provided regionally through eight locally administered programs (see chart). These programs are designed to: 1) support high-quality and comprehensive educational programs for migratory children to help reduce educational disruptions and other problems that result from repeated moves; 2) ensure migratory children are provided appropriate educational services (including support services) that address their special needs in a coordinated and efficient manner; 3) ensure that migratory children have the opportunity to meet the same challenging state content and performance standards that all children are expected to meet; 4) design programs to help migratory children overcome educational disparity, cultural and language barriers, social isolation, various health problems, and to help students make a successful transition to postsecondary education or employment; and 5) ensure migratory children benefit from state and local systemic reforms.

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Services are provided in each regional program based upon the needs of the children and the resources available in the locality. Migrant Education Programs supplement services provided through the local school division to assure migrant children are successful in school.

Virginia provided services to 2,235 children during the 1998-99 school year. Services included supplemental English as a second language tutoring, computer literacy classes, and outreach/advocacy to increase the quality of nutritional, health and dental care.

The Virginia Migrant Education Program as well as individual migrant students have received state and national recognition; however, the success of the program is substantiated each year during the months of May and June as increasing numbers of migrant students graduate from high schools and colleges in Virginia.

### **Virginia Cooperative Extension Service (VCE)**

The aim of the VCE is to help solve agriculture-related problems and promote educational programs to foster more productive lives, families, farms and forests, as well as a better environment. These efforts are directed to both businesses and private individuals. Agricultural Extension Agents located in 107 offices throughout the state provide useful information, guidance and assistance to all citizens, including growers and consumers.

### **Virginia Department of Information Technology (DIT)**

The Department of Information Technology does not directly provide services to MSFWs. Its primary responsibility is to provide data processing services, telecommunications, Internet services, systems development services, auditorium/training rooms, video production, teleconferencing and acquisition services to the Commonwealth.

## **Virginia Department of Motor Vehicles (DMV)**

The goal of the Virginia Department of Motor Vehicles is to accommodate all customers as efficiently and pleasantly as possible. Toward this goal, the DMV makes special efforts for the needs foreign-born customers, including MSFWs.

For example, many DMV offices in Northern Virginia, Richmond and Tidewater have bilingual customer service representatives (English/Spanish). These employees provide free, in-person translation services when needed. Spanish-speaking employees are also available on the telephone (in the Customer Contact Center).

In addition to bilingual service representatives, special options are available for the Driver's License Knowledge Test. This can be administered by computer or telephone on a system known as KATS (Knowledge Automated Test System). If the applicant chooses to take an oral test, the telephone is used in the preferred language; if the computer is chosen, questions are displayed on the screen and answered on a keypad.

In the event that the KATS is not a viable option, DMV has a printed version of the test in both English and Spanish. Migrant and seasonal farmworkers may bring in translators to assist with other languages.

## **Virginia Department of Business Assistance (DBA)**

The Virginia Department of Business Assistance serves as the principal point of contact between state government and basic employers in the Commonwealth. The DBA supports migrant workers indirectly through programs designed to assist firms employing this transient workforce.

Each of the agency's four divisions is charged with unique responsibilities directed at benefitting businesses of all sizes. The services offered, some of which are workforce related, are primarily those that permit management to operate most effectively. For example, the Division of Workforce Services offers a Train-the-Trainer Program that equips full-time employees to administer custom-designed training programs that often benefit migrant workers. Apple processing operations in the Winchester area have been among the beneficiaries of the program.

The Division of Small Business Financial Services has made financing available to firms employing migrants, while the Division of Small Business Development assists companies by offering management, financial and technical advice through 25 offices located throughout the Commonwealth.

The Division of Existing Industry Development uses a corps of retired business executives as field representatives. It is their responsibility to keep a "finger on the pulse" of business activity throughout the state. The "reps" keep decision makers within the business community apprised of both public and

private sector resources which could benefit their operations. Utilizing the wealth of intelligence gathered by the field representatives, the Division regularly introduces Virginia companies to other companies for their mutual benefit. Division project managers also play the critical role of ombudsmen, intervening on the behalf of companies that find themselves in conflict with state government. Finally, a primary goal of the Division is to identify and remedy impediments to doing business in Virginia.

### ***SIGNIFICANT ACTIVITIES***

The Interagency Migrant Worker Policy Committee held four meetings during 2000. The activities undertaken by the Committee include the following:

1. **Statewide MSFW Educational/Enforcement Plan** - The statewide MSFW regulatory/educational campaign that began in Southwest Virginia in 1999 was continued during 2000. Agricultural employers in the Charlottesville, Northern Neck, Tidewater, Eastern Shore, Southside and Central Virginia areas received informational packages. Included in each packet was a letter from the MSFW Board Chairman, along with employer requirements relating to: the pesticide worker protection standard; construction and maintenance of migrant labor camps; field sanitation; payment of wages; minimum wage; the Fair Labor Standards Act; agricultural child labor; workers' compensation; the Migrant and Seasonal Agricultural Worker Protection Act; employment of temporary H-2A alien agricultural workers; and employment eligibility I-9 verification.

In an effort to promote understanding of Virginia Department of Motor Vehicle driver's license services and documentation requirements, information on how to obtain a Virginia driver's license was added to the packages distributed to growers during the latter part of 2000.

The last phase of the outreach program, covering Winchester and Northern Virginia, was scheduled for completion in early 2001.

2. **Inspection Task Force** - The Virginia Departments of Labor and Industry and Health formed an inspection task force to improve migrant labor camp and field sanitation inspection activities in Southwest Virginia. The task force may be expanded to encompass the remainder of the state in the future.
3. **Federal "Limited English Proficiency" Directive** - The Committee received and discussed the potential impact and scope of a federal policy directive regarding access to federally-funded program services for "Limited English Proficiency" persons. An effort to seek clarification and guidance regarding applicability to and implementation of the directive for federally-funded programs administered by Virginia state agencies was initiated.



4. **Workers' Compensation for Undocumented Workers** - Legislation to provide workers' compensation coverage for farm and other workers within the Commonwealth, regardless of legal status, was enacted by the 2000 General Assembly. A notice regarding the coverage was included in the MSFW informational packets mentioned above.
5. **Miscellaneous Activities and Discussions** - The Committee reviewed and discussed several other topics during the year. These included the continuing need for translation/interpretative services and assistance by many state and local agencies and organizations; complaints about the lack of a Spanish language driver's manual and related services to farmworkers seeking driver's licenses; the continued growth and strength of the Hispanic population in Virginia and the nation; U.S. Department of Labor, Wage and Hour and Migrant and Seasonal Agricultural Worker Protection Act compliance; an alliance formed by migrant health providers to improve communication and service delivery throughout the state; and growers' concerns about complying with Immigration and Naturalization Service (INS) and Social Security Administration (SSA) efforts to resolve discrepant names/Social Security numbers.

### ***CONCLUSION AND RECOMMENDATIONS***

Virginia's 18,000 migrant, seasonal and H-2A farmworkers constitute an important segment of the Commonwealth's workforce and are critical to the state's economy. The Interagency Migrant Worker Policy Committee, along with the Migrant and Seasonal Farmworkers Board, actively enhances communication, coordination, and efficient program and service delivery among the many agencies that provide services to these workers and their families.

The Interagency Migrant Worker Policy Committee and Virginia Migrant and Seasonal Farmworkers Board are increasingly challenged to handle the wide range of issues relative to farmworkers. Immigration-related issues such as program access, translation/interpretation services, safety, health, welfare, housing, employment, transportation and education transcend farmworkers and continue to grow, as does Virginia's immigrant population.

The Committee and Board would like to thank the numerous state and private agencies for their assistance, cooperation and dedication in identifying problems and addressing the needs of the Commonwealth's migrant and seasonal farmworkers. Through continued coordination and communication, it is our ongoing objective to contribute to the enhancement of the Commonwealth's agricultural economy.

The following recommendations are submitted for the Governor's consideration:

1. The need to construct and improve migrant and seasonal farmworker housing throughout the Commonwealth has been documented in

recent statewide housing and economic impact studies, as well as reports from areas experiencing agricultural growth, such as the Northern Neck. It is recommended that funds be appropriated to the Virginia Department of Housing and Community Development to administer a low-interest loan program for construction and rehabilitation of migrant and seasonal farmworker housing.

2. It is recommended that the Migrant Education Program appropriation to the Virginia Department of Education be increased by \$150,000. This program has been annually funded at \$300,000 since 1986, however; the number of children and families served has doubled during that time.